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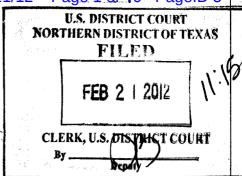
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# IN THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF TEXAS

Robert V. McLennan.

Plaintiff.

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Oncor Electric Delivery Company LLC; KKR & Company L. P., Kerri Veitch and John Doe Veitch, in her official and individual capacity; Larry Garrett and Jane Doe Garrett in his official and individual capacity; Larry Davis and Jane Doe Davis, in his official and individual capacity; Randle Efflandt and Jane Doe Efflandlt in his official and individual capacity; Reggie Bonner and Jane Doe Bonner, in his official and individual capacity; Kelly McNair and Jane Doe McNair, in his official and individual capacity; and John and Jane Does I—X, in their official and individual capacities;

Defendants.

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COMPLAINT

(JURY DEMAND)

This action is for violations of Title VII of the Civil Rights Act of 1964, as Amended, (42 U.S.C. 2000, et. seq.) (Hereinafter referred as "Title VII"), Americans with Disabilities Act of 1990, as amended, (42 U.S.C. §§ 12101 & 1213) (hereinafter referred as "ADA"); § 1981 and § 1331.

### I. JURISDICTION AND VENUE

- 1. This court has jurisdiction pursuant to 42 U.S.C. § 1981 and 28 U.S.C. § 1331.
- 2. Venue is proper in this court because all events giving rise to this action occurred in the State of Texas.

#### II. PARTIES

- 3. Robert V. McLennan ("Plaintiff" or "McLennan") is and was at all times relevant, an African-American adult male, citizen of the United States and resident of Desoto, Dallas County, State of Texas. Since 1974, Plaintiff worked at Texas Power & Light (TP&L), Texas Utilities Electric Utilities (TUE), Texas Utilities (TU) and Oncor Electric Delivery Company LLC. Since 1993, Plaintiff had worked with infrared inspections of distribution & transmission substation lines and equipment and also contracted his services to customers. During his 35 years of employment he considered himself to be well trained, safety conscious; plus he has trained many co-workers.
- 4. Defendant, Oncor Electric Delivery Company, LLC, is a Delaware Corporation and authorized to do business in the State of Texas. At all times relevant, Oncor Electric Delivery Company LLC was an employer in Dallas, Dallas County, Texas and employed more than fifteen (15) regular employees.

- 5. Defendant, Oncor Electric Delivery Company, LLC, is a retail supplier for the distribution of electricity to the general public.
- 6. Defendant, Oncor Electric Delivery Company LLC, is a wholly owned subsidiary of KKR & Company L. P.
- 7. Defendant, KKR & Company L.P., is a leading global investment firm with deep roots in private equity, diversified capabilities, and has an impressive track record with its headquarters in the State of New York with 13 offices in 9 countries. KKR & Company L.P is authorized to do business in the State of New York. At all times relevant, KKR & Company, L.P. was an employer in State of New York, Manhattan County and employed more than fifteen (15) employees.
- 8. Defendant, KKR & Company L. P. has completed a number of landmark transactions including the 1989 leveraged buyout of RJR Nabisco, which was the largest in history at the time, as well as the buyout of Texas Utilities ("TXU") in 2007. As part of the buyout, the electric distribution part of the company is now called Oncor Electric Delivery Company, LLC. KKR & Company L.P. now has direct responsibility of making sure that all its management officials and employees, who are employed by Oncor Electric Delivery Company, LLC, comply with all federal laws against employment discrimination in the workplace.
- 9. Defendant, Kerri Veitch, (hereinafter, "Defendant Veitch" or "Veitch") upon ;information and belief, at all times relevant, held the position of Human Resources Representative, for Defendant Oncor Electric Delivery Company LLC, acting in her official and individual capacity was involved in one or more decisions affecting Plaintiff's employment status including, but not limited to, decisions regarding terminations,

benefits, transfers, promotions, salary, job classification, and accommodations.

Defendant ("Veitch") is and was at all times relevant, a resident of the State of Texas.

- 10. Defendant, Larry Garrett, (hereinafter, "Defendant Garrett" or "Garrett") upon information and belief, at all times relevant, held the position of Lead Protection & Control Technician, for Defendant Oncor Electric Delivery Company, LLC and exercised direct and/or indirect supervisory authority over Plaintiff or, in the alternative, was involved in one or more decisions affecting Plaintiff's employment status including, but not limited to, decisions regarding terminations, transfers, work assignments, salary, promotions, training, job classification, performance evaluations, leave approval, and accommodations. Defendant Garrett is and was at all times relevant, a resident of State of Texas.
- 11. Defendant, Larry Davis, (hereafter, "Defendant Davis" or "Davis") upon information and belief, at all times relevant, held the position of Manager for Defendant Oncor Electric Delivery Company, LLC, and in acting his official and individual capacity was involved in one or more decisions affecting Plaintiff's employment status including, but not limited to, decisions regarding termination, transfers, work assignments, salary, promotions, training, job classification, performance evaluations, leave approval, and accommodations. Defendant Davis is and was at all times relevant, a resident of the State of Texas.
- 12. Defendant, Randy Efflandt, (hereinafter, "Defendant Efflandt" or "Efflandt") upon information and belief, at all times relevant, held the position of Operations Supervisor for Defendant Oncor Electric Delivery Company LLC, and

exercised direct and/or indirect supervisory authority over Plaintiff, or in the alternative, was involved in one or more decisions affecting Plaintiff's employment status including, but not limited to, decisions regarding terminations, transfers, work assignments, salary, promotions, training, job classification, performance evaluations, leave approval, and accommodations. Defendant Efflandt is and was at all times relevant, a resident of the State of Texas.

- 13. Defendant, Reggie Bonner (hereinafter, "Defendant Bonner" or "Bonner") upon information and belief, at all times relevant, held the position of Manager, for Defendant Oncor Electric Delivery Company LLC, and acting on official and individual capacity was involved in one or more decisions affecting Plaintiff's employment status including, but not limited to decisions regarding terminations, transfers, work assignments, salary, promotions, training, job classifications, performance evaluations, leave approval, and accommodations, Defendant Bonner is and was at all times relevant, a resident of the State of Texas.
- 14. Defendant, Kelly McNair (hereinafter, "Defendant McNair" or "McNair") upon information and belief, at all times relevant, held the position of Director, for Defendant Oncor Electric Delivery Company, LLC, and exercised direct and/or indirect supervisory authority over Plaintiff or in the alternative, was involved in one or more decisions affecting Plaintiff's employment status, including, but not limited to, decisions regarding terminations, transfers, work assignments, training, job classification, promotions, performance evaluations, leave approval, pay raises, and accommodations. Defendant McNair is and was at all times relevant, a resident of the State of Texas.
  - 15. Defendants John and Jane Does are fictitiously named Defendants who

are officers, employees, agents, servants or representatives of Oncor Electric Delivery Company LLC and/or KKR & Company L. P. who have committed wrongful acts and are either joint or concurrent malfeasors with the specifically named Defendants, and who acted in their individual capacities and, therefore, are also jointly and severally liable for the acts and omissions hereinafter complained of, or are otherwise secondarily liable for such acts or omissions.

#### III. BACKGROUND

- 16. Texas Power & Light ("TP&L"), traces its history to the beginnings of service in northern Texas. Predecessor companies include Dallas Power & Light (DP&L), which served the city of Dallas; Texas Electric Service Company (TESCO), which served areas surrounding Fort Worth; and Texas Power & Light (TP&L), which served other areas of southern, northern and western also central Texas.
- 17. Texas Utilities was formed in 1945 as a publicly-owned holding company that owned Dallas Power & Light (DP& L), Texas Power & Light (TP&L), and Texas Electric Service Company (TESCO). The three operating companies continued to operate separately until 1984, when they merged into on operating company, called TU Electric ("TU" meaning "Texas Utilities"). In 1986, TXU merged with the parent company of Lone Star Gas, allowing TXU to become the largest provider of electricity and natural gas in the State of Texas. In 2002, the State of Texas deregulated the Texas electric market, and TXU lost its monopoly on retail electric sales in northern Texas. TXU now competes statewide against other electric companies like

Dynowatt, Texas Power, Reliant Energy, Bounce Energy, Direct Energy, Stream

Energy, Gexa Energy, Green Mountain Energy, Cirro Energy, and Commerce Energy.

#### **III. GENERAL ALLEGATIONS**

- 18. Plaintiff began his employment with Texas Power & Light ("TP&L"), on September 11, 1974, as a Utility Man, and was assigned to the Right-Away Crew. Plaintiff took early advantage of his employment opportunity and participated in the company's four year progressive training program; and advanced to the position of Senior Lineman & Substation man. Plaintiff held the position of Protection & Control Technician Sr. (P&C-Sr.) before he was terminated on September 30, 2009.
- 19. Plaintiff during the period from 1983 through 1993, worked as a Technician at the TXU System Operating Services facility in Lancaster, Texas; and as a Technician, he was occupationally exposed to a wide variety of dangerous toxic substances; which caused him to, experience health problems. During this period of time, plaintiff handled High Levels of PCP-containing dielectric oils on average, three to four times a month, with durations of approximately thirty (30) minutes or more on each occasion. As a result of working with dangerous toxic substances, Plaintiff has been diagnosed with symptoms and medical conditions which qualify him as a person with disabilities pursuant to the ADA. TXU failed to provide him with the correct personal protective equipment to perform his everyday job duties.
- 20. In 1999, Dave Canon, Manager, gave Plaintiff a 5.175% pay raise because of his outstanding job performance conducting infrared inspections.

  He was working infrared inspections for Transmission and Distribution. He also performed contract infrared inspections for some of TXU customers. Mr. Canon told

Plaintiff that this extra on his raise was a way to reward him for the extra income the company made from his contract services to several customers.

Plaintiff on numerous occasions was given assignment to train employees.

Plaintiff was the only minority in his work group. He was the only one certified as an Infrared Theromographer Level III after Jim Davis left the group.

- 21. In 2000, Plaintiff changed managers and was placed under the supervision of Defendant Kelly McNair and this is when he began to notice more difference in treatment because of race. Defendant McNair told Plaintiff that he was making more money than his white co-workers. Defendant McNair Plaintiff told Lead Technician, Jimmy Davis, that Plaintiff did not deserve the full 3.2% raise that was given to the white employees in the technician group in 2000. Plaintiff was given a 1.98% pay raise in 2000. In 2001, Plaintiff's Lead Technician changed from Jimmy Davis to Defendant Larry Garrett and the difference in treatment still continued regarding pay raise. Plaintiff was given a 1.97% pay raise in 2001, while the white employees, who had far less experience in infrared, were given a 3.3% raise. Defendant Larry Garrett made the decision in 2004, to drop Plaintiff's performance evaluation rating from 004 to 003. Plaintiff was given on reason(s) why his rating was lowered. Defendant Garrett failed to provide a legitimate non-discriminatory explanation for lower Plaintiff's performance evaluation rating.
- 22. In 2000-2001, Plaintiff played a key role in the development of a device called "SC 2000-Pan & Title" that was used in Infrared Inspections to quickly locate hot spots in electric lines and equipment, so that maintenance work could be performed on line and equipment before failures and costly outages took place. Alan Bern, Manager, told

plaintiff that he played a key role in saving the company \$1.3 million by using the new infrared SC 2000 device in a one year period.

- 23. In November 2000, Plaintiff attended the Infrared Camera Application Conference at the Infrared Training Center (ITC) located in Boston, Massachusetts to get certified as an Infrared Thermographer Level III. Plaintiff's employer paid for the course; including all of his travel expenses and time off work.
- 24. In October 2004, Plaintiff attended the Infrared Camera Application

  Conference held in Las Vegas, Nevada to get re-certified as an Infrared Thermographer

  Level III. Plaintiff had to pay for the training course; including all of his travel expenses

  and time off work, Plaintiff also had to take a weeks vacation to attend the conference.

  Plaintiff was asked by a representative from FLIR Systems, Inc., the world's leader in

  night vision and infrared cameras; why his employer did not pay for the course. The

  representative further stated, that he was glad to see Plaintiff attending the training for

  re-certification because of his extensive experience in using the cameras. The

  representative had FLIR to pay the fees of \$1,055.00 for Plaintiff to take the course to

  get re-certified as an Infrared Thermographer Level III. Defendant's accused Plaintiff of

  engaging in a conflict of interest scheme.
  - 25. Plaintiff after attending the conference was told by a co-worker that In August 2004, the Defendant Oncor Electric Delivery Company, LLC, had paid for twenty (20) White employees to get certified and re-certified and the company did pay for the employees to do so. The employees were classified as Level I & II. The employees came to Dallas, Texas from different areas of the state; plus the company paid for their travel expenses. And no one had to use vacation.

- 26. On or about November 15, 2004, Plaintiff met with Defendant Garrett and Allen Bern, Manager, about getting reimbursed for his expenses. Plaintiff was told the company will no longer pay for re-certifications for Level III recertifications. Defendant Garrett lied by making false states which is a violation of 18 U.S.C. § 1001. He had told me that the company was not paying for anyone to be certified or re-certified for infrared training.
- 27. On about November 17, 2004, Rickey Eads, Manager, issued Plaintiff a letter regarding a conflict of interest regarding the \$1,055.00. Plaintiff was later found not guilty of engaging in a conflict of interest regarding the money paid by a contractor so that he could take the course for re-certification. Defendant Garrett has never taken a training course to become an Infrared Thermographer Level III. On numerous occasions before Defendant Garrett had to go to meetings with upper management, he had to ask Plaintiff a number of questions in order for managers to believe that he knew what he was taking about at the meetings. Plaintiff asked, Defendant Garrett on several occasions why he did not study and take training to get certified as an Infrared Thermographer Level III as Jimmy Davis the lead tech over the group.
- 28. In December 2004, Plaintiff had a meeting with Alan Bern, Manager, and Joe Wolf, Manager, about getting reimbursed for his travel expenses for attending the Infrared Camera Applications Conference held in Las Vegas, Nevada, but the issue was not resolved.
- 29. On January 21, 2005, Plaintiff met with Human Resources

  Representative, Ann Freyling, to discuss the disparate treatment that he was receiving from Defendant Garrett regarding the reimbursement for his re-certification for attending

Representative, Ann Freyling, to discuss the disparate treatment that he was receiving from Defendant Garrett regarding the reimbursement for his re-certification for attending the Infrared Camera Applications Conference held in Las Vegas, Nevada. Plaintiff also told Ms. Freyling that Defendant Garratt wanted him to falsify overtime hours to get reimbursed for attending, the Infrared Camera Application Conference held in Las Vegas, Nevada, to get re-certification as an Infrared Thermographer Level III. A person knowingly and willfully, falsifies, conceals, or covers up by any trick, scheme, or device a material fact is in violation of 18 U.S.C. § 1001. Plaintiff told Defendant Garrett that he would not participate in such scheme.

- 30. Shortly, after the meeting was over Defendant Garrett with his fists clinched rushed into Plaintiff's office, pushing up against him to start a fight. Plaintiff looked at him and left his office. Plaintiff did not report the incident to anyone in Human Resources, because he believed nothing was going to be done to resolve the disparate treatment that he was receiving from Defendant Garrett.
- 31. Defendant Oncor Electric Delivery Company LLC's Code of Conduct, that was revised on June 11, 2010, prohibits discrimination in the workplace; including harassment and sexual harassment. Defendant Garrett at all times relevant was fully aware of the Code of Conduct when he engaged in prohibited discriminatory employment practices against Plaintiff.
- 32. On December 22, 2005, Plaintiff, who was frustrated by what he perceived to be discrimination against himself, by several managers in his area of responsibility, as well as the failure of TXU Electric Delivery Company, to adequately deal with the

Electric Delivery Company.

33. On or about March 17, 2006, Plaintiff was issued a low performance evaluation by Joe Wolf (White), Assistant Dock Supervisor. Mr. Wolf failed to provide Plaintiff any reason(s) for the low performance evaluation. On July 10, 2006, Plaintiff

was denied workers compensation benefits associated with an on- the-job injury.

allegations of discrimination, filed EEOC Charge No. 310-2006-01317 against TXU

- 34. On or about July 17, 2006, Plaintiff again was frustrated by what he perceived to be discrimination against himself, by several managers in his area of responsibility, as well as the failure of TXU Electric Delivery Company, to adequately deal with the allegations of discrimination, filed EEOC Amended Charge No. 310-2006-0137 against TXU Electric Delivery Company.
- 35. On or about July 24, 2006, Plaintiff still being frustrated by what he perceived to be discrimination against not only himself, but other African-American employees, by managers in his area of responsibility, as well as the failure of TXU Electric Delivery Company, to adequately deal with the allegations of discrimination, sought help from the Black Citizens for Justice & Order (BCJLO), and filed EEOC Charge No. 450-2006-02560 (class-action) against TXU Electric Delivery Company. Plaintiff and African-American employees, [Clay D. Yates, David L. Ellis, and Edward C. Williams] were part of the class charge, plus their names were listed on EEOC's Third Party Certificate of Charge.
- 36. On or December 8, 2006, Daisy E. Joe, Director, of (BCJO), requested a Notice of Right to Sue from the EEOC regarding EEOC Charge No. 450-2006-02560 for Plaintiff and the other African-American employees. After the company received notice

that the Notice of Right to Sue had been issued by EEOC, the company terminated Clay D. Yates. This action sent a message to David L. Ellis and he was no longer interested in pursuing the class action charge of discrimination; which left Plaintiff being the lone wolf. Plaintiff's attorney told him to forget the class and start thinking about himself.

- 37. After EEOC issued the Notice of Right to Sue, Defendant Reggie C. Bonner, African-American, Manager, came to see about Mr. Williams' intentions regarding the lawsuit. Mr. Williams told Plaintiff about the meeting which he had with Defendant Bonner. Defendant Bonner offered him \$50,000.00 not to, take part in the lawsuit. Jackie Caruthers, who was Mr. Williams' crew foreman at that time, confirmed the meeting and offer of \$50,000.00 to not take part in the lawsuit. Within two months Mr. Williams came to work driving a brand new fully loaded White Cadillac Escalade. Defendant Bonner showed no interest in Plaintiff about the class action lawsuit at the time.
- 38. In 2008, Plaintiff met with Defendant Bonner at a local restaurant and told him about the discriminatory employment treatment that he was receiving from Defendant Garrett also Plaintiff at one time sent a negative email about Obama to Mr. Bonner that was being emailed to employees and he did nothing about it. During the meeting Defendant Bonner told Plaintiff it seemed that he was making good money without having a sponsor within the company. Plaintiff responded by saying that he liked his job; and that he was judged based on his experience and qualifications rather than his race, he did not need a sponsor. He explained that JESUS the son of GOD was his sponsor. Plaintiff requested that, he be removed from Defendant Garrett's supervision and placed under Jim Earley's supervision. Defendant Bonner denied the request.

Defendant Bonner failed to engage in an interactive process with Plaintiff to resolve the issues of racial discrimination. Defendant Bonner was fully aware of the company's Code of Conduct, but turned a deaf ear and eyes to the issues. Defendant Bonner told Plaintiff that he was the problem. Plaintiff requested that Mr. Bonner listen to the CD that he had sent him, (A sermon by Anthony Evans his Pastor)

- 39. On September 18, 2008, Defendant Garrett sent an email to Plaintiff's coworkers about the company's policy on providing a list of ALL the medications that they were taking. Plaintiff had been taking medications for years before and after Defendant Garrett became his lead technician or immediate supervisor. 1989 Chemical Exposures.
- 40. On September 23, 2008, Plaintiff sent an email to Gary Kendrick, a White Co-worker, asking him if Defendant Garrett had requested that he provides a list of all the medications he was taking. On September 23, 2008, Mr. Kendrick sent an email to Plaintiff stating that Defendant Garrett did not request that he provide a list of all the medications that he was using.
- 41. On September 23, 2008, Plaintiff sent an email to Human Resource Representative, Ashleigh Trimble and asked her why, he was required to provide a list of all the medications that he was using. Plaintiff also stated in the email that he had provided Defendant Garrett with a list of all the medications he was using at the time.
- 42. On September 23, 2008, Ms. Trimble sent an email to Plaintiff telling him to read the company's policy on the subject. Ms. Trimble stated based on the policy employees must inform their supervisors if they are taking medication that may affect their job performance. If the supervisor has reason to believe that an employee may be taking medication that could affect their job performance, they should request that

information from the employee. Employees are obligated to provide that information when requested.

- 43. Ashleigh Trimble should have known that a "qualified individual with a disability," as defined by the ADA is not required to provide a list of all the medications that he or she are using to a management official. Plaintiff was using medications that were "legal" prescription drugs. Plaintiff is not an alcoholic or user of drugs; which could have affected his job performance and conduct standards. Let's take for example, if Plaintiff had learned that he had Acquired Immune Deficiency Syndrome (AIDS), thus under the company's policy, he would have been required to provide a list of all the medications that he was using. However, in order to determine that Plaintiff's job performance and conduct standards were causing a problem; Defendant Garrett could have required him to take a drug test. Plaintiff was not required to take a drug test.
- 44. Defendant Oncor Electric Delivery Company LLC's Code of Conduct
  Policy that was revised on June 11, 2010, does not require employees to provide a list
  of all the medications that he or she is using.
- 45. In November 2008, Plaintiff attended an Infrared Camera Application
  Conference in Reno, Nevada to, get re-certified as an Infrared Thermographer Level III.
  Plaintiff had to use his vacation time; plus pay for the course including all of his travel expenses. Defendant Oncor Electric Delivery Company LLC paid for twenty (20) White employees, who received their certification; including their travel expenses.
- 46. On March 10, 2009, Plaintiff suffered an on-the-job injury which aggravated his carpal tunnel. Plaintiff never requested light duty because of his injury; however, Defendant Randle Efflandt, Operations Manager, Defendant Larry Garrett,

the underground crew was located near downtown Dallas. Plaintiff was placed in a hot room without air condition from June 2009, July 2009, and August 2009 where the heat ranged from 100 to 120 degrees. Plaintiff was given only a fan to cool himself. Plaintiff's co-workers made comments about the unsafe environment that he was working in at the time. Plaintiff was made to shred over 700-25 to 40 pound bags of papers and books; including dragging the bags to a dumpster with a 4 to 5 feet wall, and stacking the begs 7 feet high. Dr. Dodge provided Plaintiff with wrist supports to wear while he was on so called light duty. Defendant Oncor Electric Delivery Company LLC, allowed its managers to take Plaintiff's company truck away from him. Nevertheless, the company permitted a White co-worker who had cancer to keep his company truck until his death.

47. On March 15, 2009, Plaintiff was informed that adjuster, Gina Brewton, for Liberty Mutual Insurance Company had started an investigation on his claim. However, the delay between the companies caused Plaintiff from getting his carpal tunnel surgery in a timely manner. The delay caused him not to be able to return to his normal work. Plaintiff also at this time suffered immeasurable back and carpal tunnel pain because of so-called light duty work that helped to cause the need for back surgery and as of today Plaintiff has had seven (7) surgeries on hands, wrist, thumbs, and cubital tunnel on the left arm and open carpal surgery on left arm on January 31, 2012. Back surgery is pending as of today. Plaintiff could have performed normal work, if supervisors had allowed him to use the wrist supports that the doctor had provided. The infrared inspection work was

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much easier than the shredding and lifting that he was made to perform.

- 48. In April 2009, Defendant Oncor Electric Delivery Company LLC, hired Coventry Health Care, a Third Party Workers Compensation Service Company, to examine Plaintiff's medical conditions, which hired Audrey Stein Goldings, M.D.
- 49. On April 28, 2009, Dr. Goldings stated in her report the following: "It is important to note that Mr. McLennan had none of the reported and or diagnosed symptoms and medical problems which are listed above prior to 1983, the year that he started working in maintenance at the TXU System Operating Service facility in Lancaster, Texas. Therefore, in consideration of all the information, and the medical and scientific data that have been outlined and discussed in this report, one is left with the inescapable and obvious conclusion that if TXU had provided to Mr. McLennan all of the appropriate and necessary personal protection equipment that should (or would) have prevented and reduced his exposure to 1,1,1-thcloroethane and PCBs, respectively, in all likelihood Mr. McLennan would not have developed many, if not the majority of his medical problems that he has experienced in the past and that he manifests today." Dr. Goldings further stated in her report dated April 28, 2009, that Plaintiff's medications include insulin Omnlpod, Amiodipine, and Citra with impression of (1) Toxin workrelated expose, (2) Diabetes Mellitus, (3) Hypertension, and Obstructive sleep apnea. Dr. Goldings also stated that "Plaintiff could perform the essential job duties related to his nervous system complaints at the time according to the description that was provided by Defendant Oncor Electric Delivery Company LLC.
  - 50. On September 23, 2009, Human Resources Representative,

Defendant Kerri Veitch called Plaintiff while he was at home. The purpose of the call was to tell Plaintiff that he would be discharged on September 30, 2009, because he was unable to perform the essential job duties of his position. She further told Plaintiff that once he had his carpal tunnel surgery; and was ready to come back to work he will be allowed to return. Plaintiff was never given the opportunity to return to work.

- 51. On March 10, 2010, Plaintiff had his first carpal tunnel surgery. On Tuesday, April 20, 2010 @ 1:20 AM Plaintiff sent an email to Defendant Kerri Veitch (<a href="mailto:kerri.veitch@oncor.com">kerri.veitch@oncor.com</a>) and Ashleigh Trimble (<a href="mailto:ashleigh.teimble@oncor.com">ashleigh.teimble@oncor.com</a>) telling them, that he had completed his surgery; and to confirm what he was told before the surgery, he could return to work after having the surgery. Defendant Veitch and Ashleigh Trimble failed to respond to Plaintiff's email which he sent on April 20, 2010.
- 52. Ronnie Walker, White employee, who is and was at all times relevant, a qualified individual with a disability as defined by the ADA. Since 1993, he held the position Distribution Operations Technician, Sr. (DOT). In 1998, he was diagnosed with Cerebellar Atrophy. Test performed by a neurologist confirmed that his condition was not genetic; and that his condition must be environmentally caused. When he gave a summary of his environmental exposures to a neurologist, she was highly suspicious of at least two of the products that he had used regularly. Mr. Walker's co-workers were telling his supervisor that Mr. Walker had MS. In August 2001, Mr. Walker was advised by his manager that he had twelve (12) months to find a position inside TXU because he would not be allowed to keep his DOT job. Mr. Walker's manager specifically restricted him from climbing poles and working the bucket truck based on the finding of TXU's doctor. Over the next few months he applied for and was interviewed for several

positions, but he was not hired for any of the positions. During the twelve (12) months while on the "Salary Continuation" period in August 2001 and August 2002, he continued to perform his work like he had been doing since 1993, but with less restrictions placed on him by management.

- 53. In April 2002, Mr. Walker contacted the EEOC about filing a charge because he believed that he was being discriminated against because of his disability. Mr. Walker was told he was not a qualified as an individual with a "disability" because he could walk, talk, see, and smell odors. Mr. Walker had been diagnosed with Cerebellar Atrophy. Furthermore, according to his neurologist he had been exposed to some of the same toxicants that were causing health problems for Plaintiff. On May 8, 2002, Mr. Walker's supervisor told him, that he would be terminated on August 31, 2002, unless he found another job inside the company; and that he could apply for Long Term Disability. On August 31, 2002, he was terminated. Within a short time after Defendants received Mr. Walker's letter dated September 23, 2002, he was allowed to return to work and given a different job.
- 54. Plaintiff was not given an opportunity by managers to find another position within the company before he was terminated on September 30, 2009. Furthermore, Defendant Oncor Electric Delivery Company LLC was made aware by receiving Dr. Goldings' letter dated April 28, 2009, that Plaintiff could perform the essential job duties for his position. Defendants brushed aside reasoning in Plaintiff's case. Plaintiff could have continued to perform the essential job duties of his position if he was allowed to

55. On December 1, 2010, Plaintiff, was frustrated by what he perceived to be

discrimination against himself, by management in his area of responsibility, as well as

allegations of discrimination, filed EEOC Charge No. 31A-2010-00038 against Oncor

Electric Delivery Company LLC alleging that, among other things, adverse actions have

been taken against him because of his race and disability in retaliation for filing previous

On November 22, 2011, the EEOC issued Plaintiff a Notice of Right to

the failure of Oncor Electric Delivery Company LLC, to adequately deal with the

wear the wrist supports after having carpal tunnel surgery which could have been a

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reasonable accommodation.

EEOC charges of discrimination.

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Sue with regard to EEOC Charge No. 31A-2010-00038. EEOC will continue to its processing of the charge because it is apparent that the agency has discovered information that affects a class under the ADA. (a copy of which is attached hereto).

- 57. As a result of Defendants' actions, plaintiff has suffered lost of income, lost fringe benefits, mental anguish, emotional distress, inconvenience, and loss of enjoyment of life.
- 58. As a result of Defendants' actions, Plaintiff will continue to suffer lost of income, lost fringe benefits, mental anguish, emotional distress, inconvenience, and lost of enjoyment of life.

### **COUNT ONE**

#### (Disparate Treatment Pursuant to Title VII)

59. Plaintiff incorporates by reference each and every allegation contained in paragraphs 1 through 58 as fully set forth herein.

Plaintiff was well qualified for the position he held and was released by his

60.

- doctor to return to work after having his carpal tunnel surgery.

  61. Plaintiff was told that after he had his carpal surgery that he would be
  - 62. Plaintiff was subjected to adverse employment actions by Defendants.
- 63. Similarly situated individuals outside of Plaintiff's protected class were treated more favorably than Plaintiff.

allowed to return to work and continue his 35 years of service.

- 64. Defendants willfully, intentionally and unlawfully discriminated against Plaintiff on the basis of his race and disability in violation to Title VII and ADA.
- 65. Defendants' actions were done with malice or with reckless indifference to Plaintiff's federally protected rights.

#### **COUNT TWO**

#### (Retaliation)

- 66. Plaintiff incorporates by reference each and every allegation contained in paragraphs 1 through 65 as through fully set forth herein.
- 67. In complaining about discriminatory acts, Plaintiff engaged in protected activity under Title VII and ADA.
- 68. A causal link exists between the Plaintiff's protected activity and Defendants' adverse action.
- 69. Defendants willfully, intentionally and unlawfully discriminated against Plaintiff in violation of Title VII and ADA.
- 70. Defendants' actions were done with malice or with reckless indifference to Plaintiff's federally protected rights.

#### **COUNT THREE**

#### (Race Discrimination Pursuant to 42 U.S.C. § 1981)

- 71. Plaintiff incorporates by reference each and every allegation contained in paragraphs 1 through 70 as though fully set forth herein.
- 72. In treating Plaintiff less favorably than similarly situated individuals outside of Plaintiff's protected class and/or retaliating against Plaintiff in retaliation to his complaints of discrimination, Defendants violated 42 U.S.C. § 1981.
- 73. Defendants' actions were done with malice or with reckless indifference to Plaintiff's federally protected rights.

WHEREFORE, Plaintiff Robert V. McLennan request that this Honorable Court grant judgment against Defendants and:

- (A) An award of damages against Defendants, jointly and severally, for the violations alleged herein, including, but not limited to, compensation for lost and future wages, and benefits including pre and post judgment interest, compensatory damages, and mental anguish and emotional distress damages and other appropriate relief to make Plaintiff whole;
- (B) Award Plaintiff punitive damages;
- (C) Award Plaintiff attorneys' fees and costs of this action; and
- (D) Award Plaintiff such other legal and equitable relief as this Court deems just and proper.

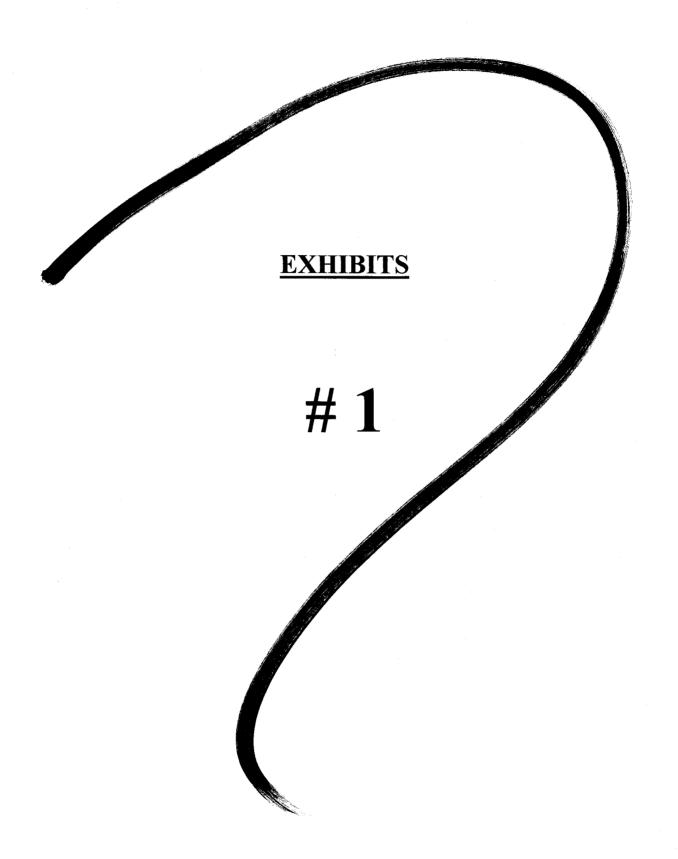
RESPECTFULLY SUBMITTED this 21<sup>st</sup>. day of February, 2012.

, Nobest V. Mc J

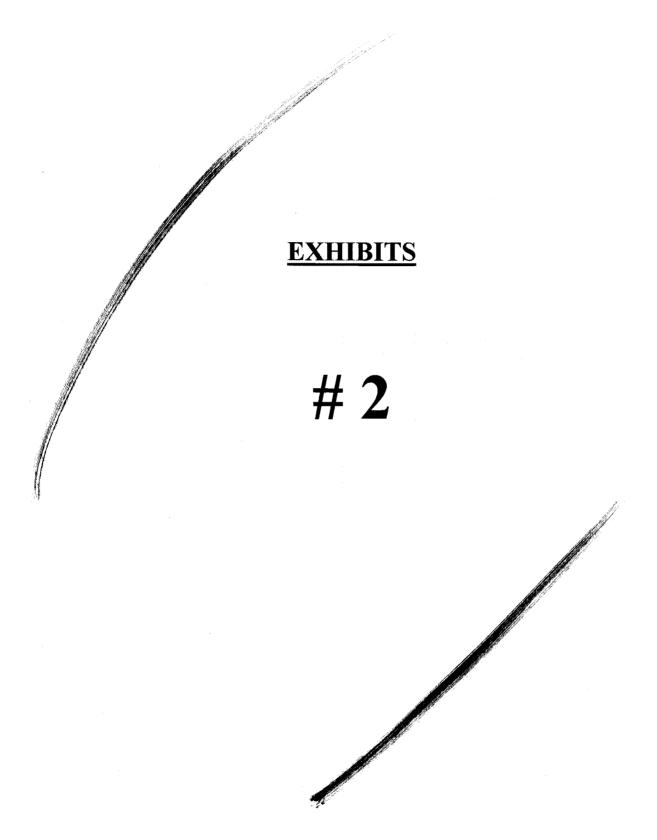
Robert V. McLennan

#### **EXHIBITS**

- 1. EEOC Charge of Discrimination Charge No. 31A-2010-00038
- 2. EEOC's Notice of Right to Sue Charge No. 31A-2010-00038
- 3. EEOC's Amended Charge of Discrimination Charge No. 310-2006-01317
- 4. EEOC's Charge of Discrimination Charge No. 310-2006-01317
- 5. EEOC's Third Party Certification of Charge—Charge No. 450-2006-02560



Case 3:12-cv-00531-G-BF Document 3 Filed	02/21/12	2000 26 of 40 E	2001D-20	
AMENDED CHARGE OF DISCRIMINATION		Page 26 of 40 F Presented To:	PageID 30 Agency(ies) Charge No(s):	
This form is affected by the Privacy Act of 1974. See enclosed Privacy Act		FEPA	31A-2010-037	
Statement and other information before completing this form.		EEOC	31A-2010-00038	
Fort Worth Community R	Relations De	partment	and EEOC	
State or local Age Name (indicate Mr., Ms., Mrs.)	ency, if any	Liama Dhana (fact Assa	Code) Data of Bidh	
Robert V. McLennan		Home Phone (Incl. Area	Code) Date of Birth	
	and ZIP Code			
901 Canyon Ridge Dr., Desoto, TX 75115				
Named is the Employer, Labor Organization, Employment Agency, Apprenticesh Discriminated Against Me or Others. (If more than two, list under PARTICULAR	nip Committee, or s	State or Local Governme	nt Agency That I Believe	
Name		No. Employees, Members	Phone No. (Include Area Code)	
ONCOR ELECTRIC DELIVERY COMPANY		101 - 200		
Street Address City, State 1500 Park Street, Dallas, TX 75201	and ZIP Code			
Name		No. Employees, Members	Phone No. (Include Area Code)	
ONCOR ELECTRIC DELIVERY COMPANY		101 - 200	(214) 486-3667	
Street Address City, State 1601 Bryan Street, Suite 22-105B, Dallas, TX 75201	and ZIP Code			
DISCRIMINATION BASED ON (Check appropriate box(es).)			RIMINATION TOOK PLACE	
X RACE COLOR SEX RELIGION	NATIONAL ORIG	Earliest <b>09-25-20</b>		
			03-30-2003	
X RETALIATION AGE X DISABILITY GENETIC INFORMATION  OTHER (Specify)  CONTINUING ACTION				
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):				
I. Personal Harm				
On September 25, 2009, I was told that I would be discharged a perform the essential job duties of my position. I believe my rad	as of Septemb	er 30, 2009 because	e I was unable to	
of race discrimination with the EEOC also were factors in my di	scharge.	retaliation for previo	usiy iliing complaints	
II. Respondent's Reason for Adverse Action				
Kerri Veitch, Anglo, Human Resources representative, told me	that I was bein	g separated from th	e company because l	
was unable to perform the essential job duties of my position.		<b>3 ,</b>		
III. Discrimination Statement				
I believe that I have been discriminated against on the basis of disability, in violation of the Americans with Disabilities				
Act of 1990, and on the basis of my race, Black, in violation of Title VII of the Civil Rights Act of 1964, as amended, and retaliation, in violation of section 704(a) of Title VII of the Civil Rights Act of 1964, as amended.				
, as amenaea.				
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their	NOTARY - When	necessary for State and Loc	al Agency Requirements	
l declare under penalty of perjury that the above is true and correct.	I swear or affirm	that I have read the above	ve charge and that it is true to	
. 200.2.0 shoot penalty of penjury that the above is true and correct.	the best of my ki SIGNATURE OF C	nowledge, information an COMPLAINANT	a belief.	
X6-5-12 Robert M. Seurce SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)				
Date Charging Party Signature				



Case 3:12-cv-00531-G-BF Document 3 Filed 02/21/12 Page 28 of 40 PageID 32

		O.O. EQUAL EMPLOTMENT OPPOR	TUNITY COMINISS	NON
		NOTICE OF RIGHT TO SUE (IS	SUED ON REQU	JEST)
To:	Robert V. McLennan 901 Canyon Ridge Dr. Desoto, TX 75115		207 S. I 3rd Flo	District Office Houston St. or TX 75202
	On behalf of person(s) & CONFIDENTIAL (29 CF	nggrieved whose identity is R §1601.7(a))		
EEO	C Charge No.	EEOC Representative		Telephone No.
		O. Marie Holland		
31A	-2010-00038	Investigator		(214) 253-2878
Notic	E TO THE PERSON AGGRIEVED:		(See also the additi	onal information enclosed with this form.
ect (contract)  been  of yo	issued at your request. Your I	light to Sue, issued under Title VII, the AI awsuit under Title VII, the ADA or GINA r	A or GINA based on the control of th	enetic Information Nondiscrimination in the above-numbered charge. It has ederal or state court WITHIN 90 DAYS mit for filing suit based on a claim under
	X More than 180 days h	ave passed since the filing of this charge		
. [	Less than 180 days h be able to complete it	ave passed since the filing of this charge s administrative processing within 180 da	but I have determings from the filing of	ned that it is unlikely that the EEOC will this charge.
[	The EEOC is terminal	ting its processing of this charge.		
	X The EEOC will continu	ue to process this charge.		
90 da	Discrimination in Employmer ys after you receive notice that case:	at Act (ADEA): You may sue under the A we have completed action on the charge	DEA at any time fro . In this regard, the	m 60 days after the charge was filed untile paragraph marked below applies to
	The EEOC is closing 90 DAYS of your rec	your case. Therefore, your lawsuit under eipt of this Notice. Otherwise, your righ	the ADEA <b>must be</b> t to sue based on th	filed in federal or state court WITHIN be above-numbered charge will be lost.
[	The EEOC is continuing you may file suit in fec	ng its handling of your ADEA case. Howeleral or state court under the ADEA at thi	ever, if 60 days have s time.	e passed since the filing of the charge,
n tede	eral or state court within 2 years	nave the right to sue under the EPA (filing (3 years for willful violations) of the allege than 2 years (3 years) before you file	d EPA underpaymer	not required.) EPA suits must be brought nt. This means that backpay due for llectible.
f you	file suit, based on this charge, p	please send a copy of your court complain	to this office.	
		On behalf	of the Commission	

Michael C. Fetzer, Director

cc:

Enclosures(s)

ONCOR ELECTRIC DELIVERY c/o Stephen Cockerham Brown McCarroll, LLP 2001 Ross Avenue, Suite 2000 Dallas, TX 75201 Robert V. McLennan 901 Canyon Ridge Drive Desoto, Texas 75115 Home (972) 223-8105

#### **AMENDED LETTER**

December 15, 2011

Michael C. Fetzer District Director EEOC Dallas District Office 207 South Houston Street, 3<sup>rd</sup> Floor Dallas, Texas 75202

RE: Robert V. McLennan v. Oncor Electric Delivery EEOC Charge No. 31A-2010-00038

Dear Mr. Fetzer:

The purpose of this letter is to inform you that I have given written authorization to the Maricopa County NAACP Branch to call you and inquire about the status in reference to the above charge number. A representative will be in contact with you soon. On Tuesday, November 23, 2011, I received a **NOTICE OF RIGHT TO SUE** for EEOC Charge No. 31A-2010-00038. However, after reviewing the document there are some questions that I need answered. There are two boxes with an X marked. One of the boxes indicates that EEOC will continue to process the charge. It is my understanding that once a Notice of Right to Sue has been issued to an aggrieved person the case has been dismissed. Therefore, how can the EEOC continue to process this charge? Is this case still open for further investigation regarding my Title VII and retaliation claims?

I appreciate a response from you regarding these matters within five days of receipt of this letter.

Sincerely,

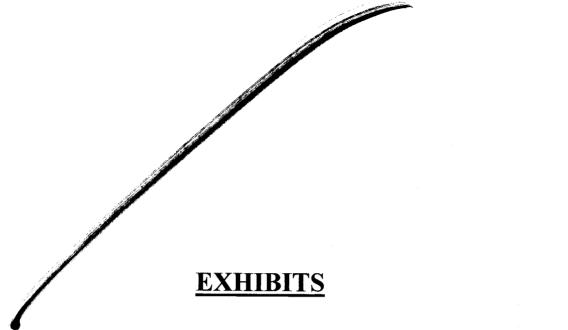
Robert V. McLennan

Cc: O. Marie Holland
Eddie B. Johnson
Gary Bledsoe
Rev. Oscar S. Tillman
John Treadwell





Name (indicate Mr., Ms., Mrs.)  Mr. Robert V. Mclennan  Street Address  City, State and ZiP Code  901 Canyon Ridge Dr., Desoto, TX 75115  Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)  Name  T X U ELECTRIC DELIVERY  Street Address  City, State and ZiP Code  1201 S. Sylvania Ave., Ft. Worth, TX 76111	I EEOC  If Birth  Area Code)				
Statement and other information before completing this form.    X   EEOC   310-2006-01317	f Birth  Area Code)				
Texas Workforce Commission Civil Rights Division and State or local Agency, if any  Name (indicate Mr., Ms., Mrs.)  Mr. Robert V. Mclennan  Street Address  City, State and ZIP Code  901 Canyon Ridge Dr., Desoto, TX 75115  Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)  Name  T X U ELECTRIC DELIVERY  Street Address  City, State and ZIP Code  1201 S. Sylvania Ave., Ft. Worth, TX 76111	e Area Code)				
Name (indicate Mr., Ms., Mrs.)  Mr. Robert V. Mclennan  Street Address  City, State and ZIP Code  901 Canyon Ridge Dr., Desoto, TX 75115  Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)  Name  T X U ELECTRIC DELIVERY  Street Address  City, State and ZIP Code  1201 S. Sylvania Ave., Ft. Worth, TX 76111	e Area Code)				
Name (indicate Mr., Ms., Mrs.)  Mr. Robert V. McIennan  Street Address  City, State and ZIP Code  901 Canyon Ridge Dr., Desoto, TX 75115  Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)  No. Employees, Members  TX U ELECTRIC DELIVERY  Street Address  City, State and ZIP Code  1201 S. Sylvania Ave., Ft. Worth, TX 76111	e Area Code)				
Mr. Robert V. Mclennan  Street Address City, State and ZIP Code  901 Canyon Ridge Dr., Desoto, TX 75115  Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)  No. Employees, Members Phone No. (Include Against Medical Code)  TX U ELECTRIC DELIVERY City, State and ZIP Code  1201 S. Sylvania Ave., Ft. Worth, TX 76111	e Area Code)				
Street Address  City, State and ZIP Code  901 Canyon Ridge Dr., Desoto, TX 75115  Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)  Name  TX U ELECTRIC DELIVERY  Street Address  City, State and ZIP Code  1201 S. Sylvania Ave., Ft. Worth, TX 76111	Area Code)				
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)  No. Employees, Members Phone No. (Include A Unknown (817) 215-4)  Street Address City, State and ZIP Code  1201 S. Sylvania Ave., Ft. Worth, TX 76111	Area Code)				
Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)  No. Employees, Members Phone No. (Include A Unknown Street Address City, State and ZIP Code  1201 S. Sylvania Ave., Ft. Worth, TX 76111	Area Code)				
T X U ELECTRIC DELIVERY  Street Address City, State and ZIP Code  1201 S. Sylvania Ave., Ft. Worth, TX 76111					
Street Address City, State and ZIP Code  1201 S. Sylvania Ave., Ft. Worth, TX 76111	4506				
1201 S. Sylvania Ave., Ft. Worth, TX 76111					
No. Employees, Members Phone No. (Include A	Area Code)				
NO. Employees, members Priorie No. (Include A	trea Coue,				
Street Address City, State and ZIP Code					
DISCRIMINATION BASED ON (Check appropriate box(es).)  DATE(S) DISCRIMINATION TOOK PLACE Earliest Late					
X RACE COLOR SEX RELIGION NATIONAL ORIGIN 10-04-2004 11-30					
X RETALIATION AGE DISABILITY OTHER (Specify below.)					
TI CONTINUING ACTION					
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):  THE CHARGE IS AMENDED TO INCLUDE CONTINUED ACTS OF RETALIATONS. ALL OTHER ISSUES AND BASES OF DISCRIMINATION REMAIN THE SAME AS INDICATED ON THE INTIAL CHARGE OF DISCRIMINATON.  I. PESONAL HARM:  On March 17, 2006, I was issued a low performance evaluation compared to previous evaluations.  On July 10, 2006, I was denied workers compensation (#01043449) benefits associated with a job injury in 1992.					
II. <u>RESPONDENT'S REASON FOR THE HARM:</u> Joe Wolf, (white), Assistant Dock Supervisor, did not give a reason for the low performance evaluations. He stated I ranked in the "top or upper level in his work group".					
The company has not given me any reasons for the continuous denial of worker compensation benefits.					
III. <u>DISCRIMNATION STATEMENT:</u> I believe I have been both discriminated and retaliated against in violation of Section 704(a) of Title VII of the Civil Rights Act of 1964, as amended, due to my race Black, and for raising work related issues showing I was treated differently compared to non-Black employees.					
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.					
I declare under penalty of perjury that the above is true and correct.	true to				
SIGNATURE OF COMPLAINANT					
Jul 17, 2006 Robert VM Junes J. Robert VM Jent Sig	*				

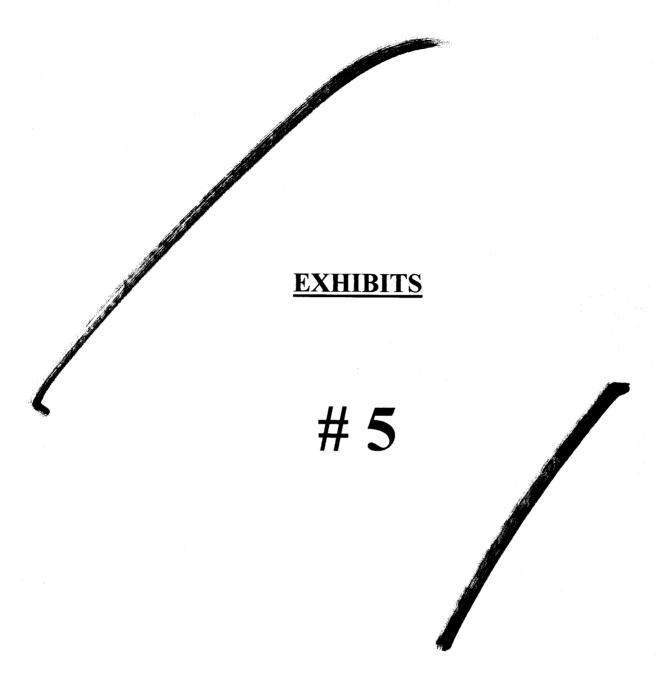


# 4

CHARGE OF DISCRIMINATION	Charge Prese	nted To: Ager	ncy(ies) Charge No(s):		
This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.	FEI		40 200C 04247		
	X EE	3	10-2006-01317		
Texas Workforce Commission Civil Rights Division and EEOC  State or local Agency, if any					
Name (Indicate Mr., Ms., Mrs.)	u any	Home Phone No. (Incl Area	Code) Date of Birth		
Mr. Robert V. Mc Lennan		(972) 223-810	5		
Street Address City, State at	nd ZIP Code				
901 Canyon Ridge Dr., Desoto, TX 75115					
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Discriminated Against Me or Others. (If more than two, list under PARTICULARS	Committee, or State	or Local Government A	gency That I Believe		
Name		No. Employees, Members	Phone No. (Include Area Code)		
T X U ELECTRIC DELIVERY		Unknown	(817) 215-4506		
	nd ZIP Code				
1201 S. Sylvania Ave., Ft. Worth, TX 76111					
Name		No. Employees, Members	Phone No. (include Area Code)		
Street Address City, State a	nd ZIP Code				
DISCRIMINATION BASED ON (Check appropriate box(es).)	<del></del>	DATE(S) DISCRIMINA			
	·	Earliest	Latest		
X RACE COLOR SEX RELIGION	NATIONAL ORIGIN	10-04-2004	11-30-2005		
X RETALIATION AGE DISABILITY OTHE	ER (Specify below.)	10-0-1 200-1	10-04-2004		
		CONTI	NUING ACTION		
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):	,				
I. Personal Harm:					
I requested if I could be reimbursed for re certification	n around Octo	ber 4, 2004, Larr	y Garrett, Lead		
Technician stated the company is not paying for anyor					
I found out that in August 2004, the company paid fo	r 20 employees	s re certification.			
November 15, 2004, I met with Larry Garrett, Lead Te	chnician and A	lan Bern. Manac	er to ask about		
getting reimbursed for re certification. I let them know	w that Flir had	told me they wo	uld reimburse the		
amount for the course.		<b>,</b>			
Milioulit ion the course.			•		
November 17, 2004, I got a letter regarding conflict of interest from Rickey Eads, Manager.					
14046-127001 31, FOO.2, 3 SOC or sector 100 Sector and	a Product man and an and an and an	,,,,,,			
Around December 2004, I spoke to Alan Bern, Manag	er and Joe Wo	lf. Manager abou	ut the		
reimbursement and the conflict of interest regarding re					
Constituting and		•			
	NOTABLE 147	Section of the sectio	ones Poquiromoste		
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully	NUTAKY – When neces	ssary for State and Local Ag	епсу пецинетенка		
with them in the processing of my charge in accordance with their procedures.					
Library under populty of porjugation that the above in true and correct		I have read the above of edge, information and b	charge and that it is true to		
I declare under penalty of perjury that the above is true and correct.	the best of my knowl SIGNATURE OF COMP	=	GIIGE.		
	1.121	Q1/11. 7	,		
120 11111	SUBSCRIBED AND SW	VORN TO BEFORE ME THI	IS DATE		
Dec 22, 2005 Propert / M Leura	(month, day, year)	11 11/1			
Date <sup>{</sup> Charging Party Signature	17 77/15	\\ \X K. k :			

# Case 3:12-cv-00531-G-BF Document 3 Filed 02/21/12 Page 34 of 40 PageID 38

CHARGE OF DISCRIMINATION	Charge Presented To: Agency(ies) Charge No(s):
This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.	FEPA   310-2006-01317
Texas Workforce Commissio	n Civil Rights Division and EEOC
State or local Agent	
THE PARTICULARS ARE (Continued from previous page):	
Around February 7, 2005, I spoke to Ann Freyling, I recommend the department reimburse me for the recommander, Joe Wolf to discuss with management to let certification in 2008.	ertification in October 2004. She did advise the
I have been denied going to conferences and additi Larry Garrett, Lead Technician.	ional training the same as the P & C technicians by
The company allowed Flir to reimburse me in Marc	n of 2005, for the course in re certification.
Around June or July 2005, I have been sent on out and I continue to be sent out of town.	of town assignments to Odessa and Midland Texas
II. Respondent's Reason for Adverse Action:	
No reason given.	
III. Discrimination Statement:	
I believe I have been both discriminated and retali Rights Act of 1964, as amended and Section 704 (a) o work related issues in which I have not been treated t	f the same Act due to my race, Black for raising
MAIN ICIGIOU 133003 III WIIICII I IINAC IIUI DOCII LIBRICU I	ne same as other employees.
I want this charge filed with both the EEOC and the State or local Agency, if any. I will	NOTARY – When necessary for State and Local Agency Requirements
advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.	NOTARY – When necessary for State and Local Agency Requirements
I de clare un de section de sette de la constant de	I swear or affirm that I have read the above charge and that it is true to
I declare under penalty of perjury that the above is true and correct.	the best of my knowledge, information and belief. SIGNATURE GE COMPLAINANT
70 . 11	Thebest VM- Janear
Dec 22, 2005 Robert / Mr Jane	SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
Date 'Charging Party Signature	117/22/15 1.18/1





EQC Ferm 3 (501)	<del></del>		
CHARGE OF DISCRIMINATION	Charge	Presented To: A	gency(ies) Charge No(s):
This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.	X	FEPA EEOC	450-2006-02560
Texas Workforce Commission	Civil Righ	ts Division	and EEOC
State or local Agency, I		Home Phone (Incl. Area C	ode) Date of Birth
arne findicate Mr., Ms., Mrs.)		Home Protection (and come of	
Black Citizens for Justice Law & Order (BCJLO)		(214) 328-372	2
reet Address City, State and Zi			
.O. Box 180042 Dallas, TX	5278	te or Local Government A	Agency That I Believe
lamed is the Employer, Labor Organization, Employment Agency, Apprenticeship Cor isochminated Against Me or Others. (If more then two, isst under PARTICULARS belo	W.)		
lame		No. Employees, Members 500 or More	Phone No (Include Area Code (214) 979-3000
TXU CORP.	D Code	200 OF MICHE	(214) 515-555
Street Address City, State and 2	P CODE		
1601 Bryan Street, Dallas, TX 75201	<del></del>	No Employees, Mearters	Phone No. (Include Area Code
lante			
Street Address City, State and Z	IP Code		
SISCRIMINATION BASED ON (Check appropriate box(es).)		DATE(S) DISCRI Earliest	IMINATION TOOK PLACE Latest
X RACE COLOR SEX RELIGION N	ATIONAL ORIG	N 08-01-20	07/01/06
	(Specify below.		<u>.</u>
		X	CONTINUING ACTION
THE PARTICULARS ARE (If additional paper is needed, attach exira sheat(s)):			
PERSONAL HARM: From approximately August 01, 2005 and continuing Black et	nolovees	at TXU Electric Del	ivery in Desoto and
Comanche Peak location have been subjected to a difference	in the ten	ms and condition o	f their employment.
RESPONDENT'S REAONS FOR ADVERSE ACTION:			
No reason given.		GO	) <b>P</b> Y
CLASS:			sn N
DISCRIMINATION STATEMENT: Black employees have been discriminated against in violation	of Title V	II of the Civil Right	s Act of 1964, as
amended in that they are subjected to a difference in discipling	ary action	, subjected to racia	st ebilineis, not baid in
time worked, and given lower performance evaluations which	results in	lower bonus award	is and retailated
against when they complained about discriminatory treatmen Blacks trained them for particular jobs, and Black employees	<ol> <li>Also vv are told th</li> </ol>	nites are given jub ev are too Black bi	ecause they complain
of injustice.		• + <del>-</del>	
	sa unda-	inding lab parforms	ence (2) Rische heini
Additionally, Systematic poor evaluations for Black employed denied promotions when they are qualified (3) ratings of jobs	are not eq	lual (4) Black empl	oyees are being
called nigger (5) remarks have been made pertaining to Nigg	ers by em	ployees in front of I	management and
because of prior charges being with EEOC Blacks are being	retaliated :	against.	
	OTARY - When	necessary for State and Loca	M Agency Requirements
will advise the agencies (f I change my address or phone number and I will cooperate fully with them in the processing of my change in scandance with their processing.	swear or affirm	that f have read the above	ve charge and that it is true to
I declare under penalty of perjury that the above is true and correct.	e best of my	nowledge, information an	d belief.
1.5	CONTRACTOR OF	PARIL PARAMET	

(This Form is affected by the Privacy Act. See Privacy Act Statement below before completing.)

Cashed in the charge specified below is filled on behalf of person(s) aggrieved by the respondent(s) Cashed in the charge of the charge and that it despends the charge and the charge are the charge and the charge are the charge and the charge are the charge are

BCJLO(Black Cityens For Judice V. charging pany	TXU Corp.	450-2006-02 560 charge number
---	-----------	----------------------------------

LIST AGGRIEVED PERSON(S) BELOW (To be completed by the Charging Party)

(If more space is needed, make copies of form before completing) PHONE NUMBER **ADDRESS** NAME 817-301-3247 CLAY D. YATES 2911 SAN ROCENDO ST. #4324 Robert V McLennan 101 Canyon Ridge Dr. Desoto TX. 75115 972-223-8105

DAVID L ELLIS 3808 Twilight Dr. South Fluorik TX. 76114 817-320-1864

Edward CWilliams 2909 Midbury Lancoston Tx 75134 469-595-2616

I declare under the penalty of perjury that the above is true and correct.

SIGNATURE OF PERSON FILING ON BEHALF OF AGGRIEVED PERSON(S)

TELEPHONE NUMBER

214-328-3722

Privacy Act Statement: This form is covered by the 1974 Privacy Act, Pub. Law 93-579. Authority for requesting personal data and its uses are:

Form. EEOC Form 151, Third Party Certification of Charge (5/01) Authority. 42 U.S.C. 2000e-5(b); 29 U.S.C. 626(d); 29 U.S.C. 12117(a)

Principal purposes. Provides certification that there are aggreed person(s) on whose behalf the charge is being filed in order to preserve their right to sue and, under Title VII or the ADA, to establish a basis for EEOC to act on the charge.

Routine uses. To establish the existence of aggrieved person(s) within the meaning of Title VII, the ADA, or the ADEA on whose behalf the charge is being filed and, as may be required, to establish their eligibility to receive a notice of right to sue.

Disclosure is mandatory; effect of not providing data. EEOC ordinarily will not proceed to process a charge filed on behalf of aggrieved persons without evidence of their existence. However, there is no personal flability for failure to provide such evidence and it is not required that this form be used.

# Request For Right To Sue

As representative for Robert McLennan & Edward Williams I am requesting the right to sue on charge # 450-2006-02560.

(Due to circumstances of how the EEOC views BCJLO, we feel that the charging parties we represent, their charges are not being viewed Properly or fairly.)

Dated : December 8, 2006

Daisy E.Joe

Dir. BCJLO

U.S. WOULD EMPLOYMENT OFFORTUNITY OF 31-G**-BismissacianteNdBicffoieBigff79**1/1*2* 

lobert V. Mclennan 01 Canyon Ridge Dr. lesoto, TX 75115

1601 Bryan Street Dallas, TX 75201

Dallas District Office - 450 207 S. Houston St.

3rd Floor Dallas, TX 75202

On behalf of person(s) eggrieved whose identity is CONFIDENTIAL (29 CFR §1601.7(a)) Telephone No. EEOC Representative Charge No. Victor Galvan, (214) 253-2876 Investigator 2006-01317 EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON: The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC. Your allegations did not involve a disability as defined by the Americans With Disabilities Act. The Respondent employs less than the required number of employees or is not otherwise covered by the statutes. Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge. While reasonable efforts were made to locate you, we were not able to do so. You were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged. The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge. The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge. Other (briefly state) - NOTICE OF SUIT RIGHTS -(See the additional information attached to this form.) . Vil, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only ce of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under arai law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS of your receipt his notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may different.) Jal Pay Act (EPA): EPA sults must be filed in federal or state court within 2 years (3 years for willful violations) of the ged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) ore you file suit may not be collectible. On behalf of the Commi Michael C. Fetzer (closures(s) Director Ms. Daisy E. Joe Mr. Kyle R. Davis, SPHR **BCJLC** Director - Employee & Loabor Relations
TXU ELECTRIC DELIVERY P.O. Box 180042

Dallas TX 75218

3 44 (Rev. 09/11)	ov 00521 C DE	CIVIL	COVER SHEET Filed 02/21/12	as 40 of 40. Dogs	ND 44 #
he JS 44 civil cover sheet and y local rules of court. This for ne civil docket sheet. (SEE IN	III. ADDIOVEG DV LIJE JUGICIAI	erein neither replace nor s Conference of the United	tupplement the filing and service of d States in September 1974, is requ	ge 40 of 40 Page f pleadings or other papers as re ired for the use of the Clerk of	quired by law, except as provident for the purpose of initial
. (a) PLAINTIFFS		ODICI	DEFENDANTS		)FOE
Robert V. McLennan		ORIGI	Oncor Electric Dell (See list of Parties	ivery Company ILC , et for remaining Defendan	IECEIVEDY
(b) County of Residence	of First Listed Plaintiff	allas County Texas	County of Residence	of First Listed Defendant	FER 2   2012
(E	XCEPT IN U.S. PLAINTIFF CA	SES)	NOTE:	IN U.S. PLAINT FF CASES IN LAND CONDEMNATION CONTROL THE TRACT OF LAND ONE NORTH	CASES, USE THE LOCATION O
(a)				Lionin	C, U.S. DISTRICT COURT ERN DISTRICT OF TEXAS
(C) Attorneys (Firm Name,	Address, and Telephone Numbe	<b>"</b>	Attorneys (If Known)  8-12	C V - 5 3 1	L = G
I. BASIS OF JURISD	ICTION (Place an "X"	in One Box Only)	III. CITIZENSHIP OF P		
1 U.S. Government Plaintiff	3 Federal Question (U.S. Government)	Vot a Party)	(For Diversity Cases Only) PT Citizen of This State		
U.S. Government Defendant	Diversity (Indicate Citizenship)	ip of Parties in Item III)	Citizen of Another State	2	
			Citizen or Subject of a  Foreign Country	3 🗇 3 Foreign Nation	0 6 0
V. NATURE OF SUIT					
CONTRACT  1 110 Insurance	PERSONAL INJURY	RTS PERSONAL INJURY	FORFEITURE/PENALTY  © 625 Drug Related Seizure	BANKRUPTCY  422 Appeal 28 USC 158	OTHER STATUTES  375 False Claims Act
J 120 Marine J 130 Miller Act J 140 Negotiable Instrument	☐ 310 Airplane ☐ 315 Airplane Product Liability	☐ 365 Personal Injury - Product Liability ☐ 367 Health Care/	of Property 21 USC 881	☐ 423 Withdrawal 28 USC 157	☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking
I 150 Recovery of Overpayment	☐ 320 Assault, Libel &	Pharmaceutical		**************************************	☐ 450 Commerce
& Enforcement of Judgment  1 151 Medicare Act	Slander  330 Federal Employers'	Personal Injury Product Liability		820 Copyrights 830 Patent	☐ 460 Deportation☐ 470 Racketeer Influenced ar
I 152 Recovery of Defaulted Student Loans	Liability ☐ 340 Marine	368 Asbestos Personal Injury Product		☐ 840 Trademark	Corrupt Organizations  480 Consumer Credit
(Excl. Veterans)	345 Marine Product	Liability	LAHOR	**************************************	☐ 490 Cable/Sat TV
J 153 Recovery of Overpayment of Veteran's Benefits	Liability  350 Motor Vehicle	PERSONAL PROPERT  370 Other Fraud	FY ☐ 710 Fair Labor Standards Act	☐ 861 HIA (1395ff) ☐ 862 Black Lung (923)	☐ 850 Securities/Commodities Exchange
I 160 Stockholders' Suits I 190 Other Contract	☐ 355 Motor Vehicle	371 Truth in Lending	720 Labor/Mgmt. Relations	☐ 863 DIWC/DIWW (405(g))	☐ 890 Other Statutory Actions
190 Other Contract 195 Contract Product Liability	Product Liability  360 Other Personal	380 Other Personal Property Damage	<ul> <li>740 Railway Labor Act</li> <li>751 Family and Medical</li> </ul>	☐ 864 SSID Title XVI ☐ 865 RSI (405(g))	☐ 891 Agricultural Acts ☐ 893 Environmental Matters
1 196 Franchise	Injury ☐ 362 Personal Injury -	385 Property Damage Product Liability	Leave Act 790 Other Labor Litigation	<i>\</i>	☐ 895 Freedom of Information Act
	Med. Malpractice	•	791 Empl. Ret. Inc.		☐ 896 Arbitration
210 Land Condemnation	CTVIL RIGHTS  ☐ 440 Other Civil Rights	PRISONER PETITIONS  510 Motions to Vacate	······································	FEDERAL TAX SUITS  0 870 Taxes (U.S. Plaintiff	☐ 899 Administrative Procedu Act/Review or Appeal (
220 Foreclosure	☐ 441 Voting	Sentence		or Defendant)	Agency Decision
230 Rent Lease & Ejectment 240 Torts to Land	■ 442 Employment  □ 443 Housing/	Habeas Corpus:  530 General	•	☐ 871 IRS—Third Party \ 26 USC 7609	☐ 950 Constitutionality of State Statutes
245 Tort Product Liability	Accommodations	535 Death Penalty	IMMIGRATION	20 USC 7009	State Statutes
290 All Other Real Property	O 445 Amer. w/Disabilities - Employment	☐ 540 Mandamus & Othe ☐ 550 Civil Rights	er ☐ 462 Naturalization Application ☐ 463 Habeas Corpus -		
•	☐ 446 Amer. w/Disabilities -	555 Prison Condition	Alien Detainee		
	Other  448 Education	☐ 560 Civil Detainee - Conditions of Confinement	(Prisoner Petition)  465 Other Immigration Actions		
M Original 2 Res		Remanded from D	4 Reinstated or 5 Transf	Perred from	
	Cite the U.S. Civil Sta	tute under which you are	filing (Do not cite jurisdictional sta	tutes unless diversity):	
7. CAUSE OF ACTIO	ON Title VII Civil Rig Brief description of ca	hts of 1964, ADA of	1990 , and 42 U.S.C. Secti	on 1981	
7II. REQUESTED IN COMPLAINT:		IS A CLASS ACTION	DEMAND \$	CHECK YES only JURY DEMAND:	if demanded in complaint:  X Yes □ No
'III. RELATED CASI IF ANY	E(S) (See instructions):	JUDGE		DOCKET NUMBER	
ATE		SIGNATURE OF ATT	ORNEY OF RECORD	<del></del>	
OR OFFICE USE ONLY		i	·	· .	<u> </u>
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